

# Disputes

## RESOLVING



## CONSUMER DISPUTES

Consumer Resource Center  
Office of the Attorney General

# Resolving Consumer Disputes

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## SMALL CLAIMS COURT

Small Claims Court allows a person to settle a legal dispute involving \$4,000 or less without hiring an attorney. There are no juries, and lawyers are not allowed to represent either party. Therefore the process is quicker and less expensive than that in District Court. Small Claims Court actions must be started within three years of the disputed transaction.

Small Claims Court handles only claims for money. It cannot help the person suing (the **plaintiff**) regain property, nor can it force the person or business being sued (the **defendant**) to perform any action. For example, the Court can require an auto repair shop to refund money to you, but cannot force the shop to make free repairs on your car.

## Filing a Claim

To start a case in Small Claims Court, the plaintiff must file a claim where:

- \* the defendant lives
- \* the defendant conducts business, or
- \* a traffic accident or similar incident occurred.

Contact the District Court nearest that location, and tell the clerk that you want to start a small claims action. The clerk will tell you whether the address is within the boundaries of the court you have contacted.

The clerk will provide you with several forms to fill out and you will receive information about the Small Claims Court process.

A form you will be provided is called a “Notice of Small Claims.” In the “Notice” you describe your claim and provide the defendant’s name, address and phone number. After you submit the completed form and pay a \$10 to \$25 filing fee, you will be given a time and date for the trial.

## Serving Notice

A copy of the “Notice of Small Claims” must be delivered to (or **served on**) the defendant. This notice instructs him or her to appear in court. It is your responsibility to see that the defendant receives this notice; however, you cannot deliver it yourself. The Court will provide you with information about other methods of service, such as having a sheriff or legal messenger service make the delivery. If you win the

case, the costs of delivering or serving the complaint on the defendant can be requested and awarded to you. You can also have someone over the age of 18 who is not involved in the case serve the notice. Be sure it is served properly, and that the notarized affidavit of service is presented to the court. The clerk will provide you with a “Return of Service” statement that should be filed with the court after the defendant has received notice.

Be aware that after receiving notice, the defendant may file a counterclaim against you. For example, if an upholstery cleaner ruins your sofa and you file a claim in Small Claims Court without paying the bill, the company can file a counterclaim against you for the cost of the cleaning. If the judge decides against you, you could be required to pay for the cleaning plus court costs.

## The Proceedings

Each party is given a chance to tell his or her side of the story to the judge. You should bring any papers with you which relate to the case (such as receipts, pictures, warranties, or leases) and you can bring witnesses to support your case. Be sure these witnesses have direct knowledge of the case. Statements a witness makes based on information heard from someone else (**hearsay**) might not be admissible as evidence.

It’s a good idea to prepare your presentation before the trial. It should be complete, convincing, short and to the point. Avoid irrelevant information and remain calm and professional. Don’t get overly emotional.

If the defendant does not appear at trial, the plaintiff is granted a default judgment for the full amount of the claim-provided he or she has proof the notice was properly served on the defendant and the plaintiff can prove to the judge that the money is actually owed.

## The Judgment

At the end of the trial, the judge will issue a decision. If the decision is in favor of the plaintiff, the court will order the defendant to pay a certain amount of money (a **judgment**). If the decision is in favor of the defendant, the case will be dismissed. In the case of a counterclaim, the plaintiff may be ordered to pay a judgment to the defendant or the judge may dismiss it as well.

If the court awards a judgment, a “Satisfaction of Judgment” form must be completed after the trial. If the plaintiff wins and is successful in collecting the

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judgment, then the top half of the form must be filled out and returned to Small Claims Court.

If the losing party fails to pay the judgment within 20 days of the time set by the court in the payment plan you can request the judgment be entered in the civil docket of the district court by filling out the bottom half of the form and submitting it to the Small Claims Court. You then may use the following options in collecting the debt: **Writ of Garnishment.** This is an order issued to the losing party's bank or employer, requiring a certain amount of money to be given to the winner. The necessary forms may be available from a legal supply store. You may need an attorney's help in filling them out. The law allows the recovery of attorney fees of up to \$250.

**Writ of Execution.** This is an order to the sheriff to seize some of the other party's property, sell it and pay you from the proceeds of the sale. It may be necessary for you to have the help of an attorney to file this writ. Under the law, no attorney fees can be collected along with the judgment in a writ of execution. Consult an attorney for further details.

**Collection Agency.** The judgment can be turned over to a collection agency. If the agency collects on the debt, it usually keeps from one-third to one-half of the amount as a fee.

**Lien.** You may also have the judgment transferred to the Superior Court docket, which then puts a lien on property owned by the losing party. That property cannot be sold until you receive your money.

## Appeals

In some cases, the judge's decision in Small Claims Court can be appealed to the Superior Court. Contact the District Court for information on appeal procedures. The defendant in the action cannot appeal a judgment where the amount claimed was less than \$250. The plaintiff cannot appeal if the amount claimed was less than \$1000.

## HIRING AN ATTORNEY

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You may hire an attorney and file a lawsuit against the business in District or Superior Court. In many types of consumer protection lawsuits if you win the case, the court can award you money to cover the harm done by the losing party. The amount of damages can be tripled by the judge, up to a limit of \$10,000. In addition, you can be awarded the cost of bringing the suit (e.g., attorney's fees, court costs).

If you do not have an attorney and wish to consult one about bringing a lawsuit, ask your friends and family for recommendations. Some county bar associations sponsor lawyer referral programs and many communities have low-cost legal clinics. You can contact the Washington State Bar Association (1-206-727-8207 & press 7) to check an attorney's record for past disciplinary actions.

## RESOLVING YOUR COMPLAINT

### Get Organized

Clearly identify your problem and what you believe would be a fair solution. Be as realistic as possible when you are deciding what should be done to correct the problem. Gather all your supporting documents such as receipts, contracts, warranties, repair orders, ads, promotional literature, cancelled checks, and account numbers.

### Call or Write the Company

Try calling first; it may be resolved immediately. Follow-up with a letter and keep a copy. Your letter should include your name, address, and daytime phone number. Type the letter and keep it to one page. Be pleasant but firm in tone. State only the important details and what you want done. Include copies of relevant documents, but keep originals for your files. If you paid by credit card, write your credit card company within 60 days of purchase and notify it that you're disputing the charge.

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## Consider a Settlement

If your demands are not fully met, you may wish to propose a fair settlement. Sometimes a compromise solution is better than no solution at all.

## Seek Third Party Help

If the company won't resolve the matter, contact the Attorney General's Consumer Resource Centers or another mediation service, like the Better Business Bureau.

## Take the Next Step

If negotiating through the Consumer Resource Centers doesn't bring about the results you want or you choose not to utilize their services, you still have options. You can convince the other party to go to arbitration with you. For matters under \$ 4,000, you can take your complaint to Small Claims Court (you don't need a lawyer for this). You may also consult with an attorney regarding other options available in your case.

## ARBITRATION

In arbitration, your complaint is heard by an impartial third party who issues a decision after hearing both sides. Usually, both sides must agree to participate in arbitration; however, many contracts now stipulate that any dispute arising out of the agreement must be resolved through arbitration. Typically, if you lose in arbitration, you cannot bring a lawsuit in court over the same matter.

Arbitration hearings are not held in courtrooms and formal legal procedures are not followed. You may be represented by an attorney, but it is not necessary.

An arbitrator's decision is legally binding and can be enforced the same as a court judgment. Arbitration is usually faster, more convenient and less costly than going to District or Superior court.

## For Further Information

The Attorney General's Office provides information and informal mediation to consumers and businesses. If you have a question or want assistance resolving a problem, please contact one of the Consumer Resource Centers listed below.

The Attorney General is prohibited from acting as a private attorney on a complaint. If your complaint demands immediate legal action, you should consider private legal action in Small Claims Court (no attorney necessary) if your claim is under \$4,000. If your complaint involves more than \$4,000, you should seek a private attorney. You might also consider arbitration.

### CONSUMER RESOURCE CENTERS OFFICE OF THE ATTORNEY GENERAL

Web site.....<http://www.atg.wa.gov/consumer>

Statewide .....(800) 551-4636  
(800) 833-6384 WA Relay Service

Bellingham.....(360) 738-6185  
Kennewick.....(509) 734-7140  
Seattle.....(206) 464-6684  
Spokane.....(509) 456-3123  
Tacoma.....(253) 593-2904  
Vancouver.....(360) 759-2150  
Lemon Law: .....(800) 541-8898 or in Seattle 587-4240

The Attorney General's Office has a policy of providing equal access to its services. If you need to receive the information in this brochure in an alternate format, please call (206) 464-6684.

The hearing impaired may call 1-(800) 833-6384 Statewide.



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